



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,273	12/29/2000	George W. Rozakis	1683-G	9130

7590 05/07/2003

Fred H. Zollinger, III  
SAND & SEBOLT  
Aston Park Professional Centre  
4801 Dressler Rd., NW, Suite 194  
Canton, OH 44718-3669

EXAMINER

RAMANA, ANURADHA

ART UNIT	PAPER NUMBER
----------	--------------

3732

DATE MAILED: 05/07/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/752,273

Applicant(s)

ROZAKIS ET AL.

Examiner

Anu Ramana

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

In accordance with the Requirement for Election/Restriction made in Paper No. 6, this Office Action addresses claims of the elected invention I, namely, 1-6 and 24-25.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3, 5, 24 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Largent (US 6,312,424).

Largent discloses a system 11 with an excimer laser 15 producing a laser beam along a beam path, a beam shaping means or beam expander 17 and a means for controlling the beam shaping means, 19, to change the curvature of the cornea for a first vision correction power or “positive diopter” in a first region and a second vision correction power or “negative diopter” in a second region wherein the regions are in appropriate circumscribing or concentric relationship (col. 1, lines 36-47 and lines 66-67, col. 2, lines 1-2, col. 3, lines 2-17 and Figure 2).

The initial statement of intended use and all other functional implications related thereto have been considered but do not appear to impose any patentably distinguishing structure over that disclosed by Largent.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

Art Unit: 3732

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Largent.

Regarding claim 4, although Largent does not disclose the diameter of the first and second zones to be 6 mm and 4 mm, respectively, this would be an obvious design choice based on the size of the human eye since the Applicant has not disclosed that these distances provide a special advantage.

Regarding claim 6, a human eye could require a positive diopter correction equal in magnitude to the negative diopter correction since this is dependent on the structure of the particular cornea. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the claimed system for a providing a positive diopter correction equal in magnitude to the negative diopter correction since this is one selection of numerous possible values dependent on the cornea being treated.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Largent in view of Warner et al. (US 4,903,695).

Largent does not specifically disclose a first zone having a diameter of 6 mm and a second zone having a diameter of 4 mm.

Warner et al. teach that the diameter of the cornea used for correction of myopia or hyperopia is in a range of 4 to 6 mm (col. 4, lines 24-32).

Accordingly it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize diameters of 6 mm and 4 mm, as taught by Warner et al., respectively, for the first zone for correction of hyperopia or "positive diopter correction" and the second zone for correction of myopia or "negative diopter correction" wherein the first zone circumscribes the second zone.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (703) 306-4035. The examiner can normally be reached Monday through Friday between 8:30 am and 4:30 pm.

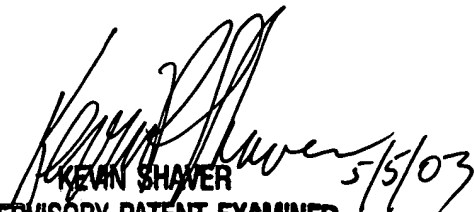
Art Unit: 3732

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at (703) 308-2582. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2708 for regular communications and (703) 308-2708 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

AR

May 2, 2003

  
KEVIN SHAVER 5/5/03  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700